

W/44
15 May 1950

ENGLISH
Original: FRENCH

On the procedure proposed in the Memorandum of 29 March 1950

(Working Paper prepared by the Secretariat)

In the Memorandum of 29 March 1950 to the Arab States and the Israeli Government, the Commission states in regard to the procedure which it recommends:

"As regards the actual procedure, the Commission considers it preferable not to adopt rigid rules. For the moment, it envisages the formation of joint committees under the chairmanship of a representative of the Commission and composed of representatives of the countries concerned in the particular subject under discussion. In particular cases, of course, this general formula could be modified by mutual agreement between the parties and the Commission. In principle each Committee would have precise and concrete terms of reference, consisting either of the discussion and study of questions which the Commission, in agreement with the parties, had submitted to it for preliminary examination, or of the study and discussion of a proposal drawn up by the Commission on its own initiative or at the request of one or more delegations."

A. Features of the Procedure

The meetings would be three-sided, i.e. the two chief parties concerned would be represented by delegates, and the Conciliation Commission by one of its members or his alternate.

The tripartite nature of the Committees would not be affected even if the Committees were multilateral. Instead of one Arab representative, representatives of two or more Arab governments would take part in the study and discussion of problems of a general nature. The actual nature of the problem and the stated or presumed interest of the parties would determine whether the Committee would be bilateral or multilateral.

B. Terms of Reference of the Committees and Order of Discussions

The terms of reference of each Committee would be fixed by the Commission in agreement with the interested parties. These terms of reference would be

general in character, and each Committee would be expected to draw up its own agenda and programme of work. Here agreement between the parties would be the determining factor, but the Commission would be entitled to put forward proposals as to the order in which the various problems should be taken up.

The order of discussion might have a considerable influence on the outcome of the Committees' work. The Commission might conceivably suggest the discussion of secondary matters first, with the object of creating an atmosphere favourable to the study of the main questions outstanding. Should the parties accept this method of approach, the discussions arising out of it would in the great majority of cases come up against questions of principle on which the parties are divided. Even if concrete results were achieved, their implementation would be dependent on the solution of the basic problems. Moreover, it would be difficult to make a choice among the various questions of secondary importance without falling into an empirical method of working which, in the long run, would make rapid progress in the negotiations difficult.

C. Procedure in the Committees

The Chairmanship of the Committees (or Sub-Committees) would be in the hands of a representative of the Commission. He would be either one of the members of the Commission or his alternate, or someone nominated for the purpose by the Commission.

All the parties would be at liberty to set forth their views, either orally or in writing. They could, if they so desired call in the services of experts.

In the course of discussion, the Chairman, representing the Commission, would decide as to the advisability of submitting to the parties concerned the Commission's proposals on any given point, whether of procedure or of substance. In particular, he would pronounce the closure of the debate.

Under paragraph 6 of the Memorandum, each Committee "would have precise and concrete terms of reference, consisting either of the discussion and study of questions which the Commission, in agreement with the parties, had submitted to it for preliminary examination, or of the study and discussion of a proposal drawn up by the Commission on its own initiative or at the request of one or more delegations".

As regards in particular the proposals made by the Commission itself, the Commission feels that it is impossible to visualise "a procedure of mediation, in the course of which it would be expected to submit proposals to the parties, without the assurance that these proposals could be examined and discussed at meetings between the representatives of the Commission itself and of all the parties having an interest in the subject under discussion".

D. Outcome of this Procedure

The tripartite procedure presupposes that the parties would not conduct separate negotiations on the same subjects outside the Commission. The Commission would naturally not discourage such a step, but should an agreement be reached as a result of such negotiations, the Commission's role would be confined to taking note of it.

Failing negotiations outside the Commission, any results achieved in the Mixed Committees should be co-ordinated by the General Committee, which would report to the Commission. The latter would then consider whether such results would be likely to constitute a basis for a more or less general settlement of the Palestine problem.

E. Practical working procedure

At present the two main obstacles to agreement between the parties are the refugee question and the territorial question. Hence it would seem desirable to undertake a detailed examination of these two questions from the start. Four mixed national committees might be set up with instructions to discuss these two questions. Each of these four committees would consist of an Israeli representative and a representative of one of the four Arab countries taking part in the work of the Commission. The Chairman would be a representative of the Commission.

The mixed national committees would have the power to set up sub-committees for the study of particular problems. The sub-committees would have a similar composition.

The terms of reference of the national committees would be fixed by the Commission by agreement with the parties. Each committee would draw up its own agenda and programme of work. There would be no summary records of the meetings

of the committees and sub-committees.

A short report might be made by the Chairman of the committee or sub-committee at the end of each meeting, and submitted for approval by the members as early as possible. In principle not more than two committees or sub-committees would meet on the same day. The Chairman would have discretionary powers to convene the committees or sub-committees.

At the request of the parties, the Commission might call together representatives of two or more Arab countries and an Israeli representative in mixed multilateral committees. The task of these committees would be to study problems of common interest to two or more Arab States taking part in the work of the national committees; while the Commission might recommend the parties to set up such committees, should it consider this necessary.

Such would appear to be the general outline of a practical working procedure as envisaged in the Memorandum of 29 March 1950. It would seem to be justified by the importance of preventing from the outset discussions on matters of principle on which the interested parties are profoundly at variance. Naturally, it would be difficult to avoid such discussion in the long run; but it may be hoped that the discussions in the national committees would enable the problem of refugees and territorial questions to be examined more realistically. Such a method might well give the representatives of the parties an opportunity of putting forward their views, taking into account the circumstances peculiar to each one.
